



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET- SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

2005 MAY -5 AM 8:15

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: SDWA-08-2004-0056

IN THE MATTER OF:

WATER DISPOSAL, INC.
Park City, UT

RESPONDENTS

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FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

DATE

May 5, 2005

Alfred C. Smith

Alfred C. Smith
Regional Judicial Officer

2005 MAY -5 AM 8:15

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EPA REGION VIII
HEARING CLERK

Respondent.

BACKGROUND

- 1

test at least every five years. The location of the Helen Larsen well is inside the exterior boundaries of the Uintah & Ouray Indian Reservation, Duchesne County, Utah.

TERMS OF SETTLEMENT

3. Pursuant to section 1423(c)(4)(B) of the SDWA, the nature of the violations, Water Disposal's agreement to perform a Supplemental Environmental Project (SEP) and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is the amount of \$1189.00 (one thousand one hundred and eighty-nine dollars).
4. Water Disposal consents to the terms of this Consent Agreement and to the issuance of the Final Order and consents for the purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph and to the performance of the SEP described in this agreement.
5. Not more than thirty (30) calendar days after the date of issuance of the Final Order, Water Disposal shall submit a cashier's or certified check, payable to "Treasurer, United States of America," in the amount of \$1189.00 (one thousand one hundred and eighty-nine dollars) to:

EPA - Region 8
Regional Hearing Clerk
Post Office Box 360859
Pittsburgh, Pennsylvania 15251.
6. A copy of the check identified in paragraph 5 shall be simultaneously mailed to the following addresses:

Tina Artemis, Regional Hearing Clerk
U.S. EPA, Region 8 (8RC)
999 18th Street, Suite 300
Denver, Colorado 80202-2466, and

Jim Eppers, Senior Enforcement Attorney
U.S. EPA, Region 8 (8ENF-L)
999 18th Street, Suite 300
Denver, Colorado 80202-2466.

The check shall bear the case docket number. Interest and late charges shall be paid as specified in paragraph 21 herein. The penalty specified in paragraph 5, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

7. Water Disposal stipulates that EPA has jurisdiction over the subject matter alleged in the PAO and that the PAO states a claim upon which relief can be granted against Water Disposal. Water Disposal waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual allegations in the PAO, consents to the terms of this Consent Agreement.
8. This Consent Agreement applies to and is binding upon Water Disposal, its officers, directors, employees, successors and assigns, including, but not limited to, subsequent purchasers of the Helen Larsen well and/or Water Disposal. Any change in ownership or corporate status of Water Disposal, including, but not limited to, any transfer of assets of real or personal property shall not alter Water Disposal's responsibilities under this agreement.
9. Water Disposal hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the PAO.

10. Water Disposal shall complete the following SEP, which the parties agree is intended to secure significant environmental or public health protection and improvements relating to an April, 2004 spill of produced water and oil from one of Water Disposal's North Crescent Road evaporation ponds: Water Disposal shall conduct a SEP that involves collecting drinking water samples twice from fourteen (14) nearby private water wells and comparing the samples' analytical results with a water sample collected from its waste water evaporation pond located at its North Crescent Road facility in Township 1 South, Range 1 West, Section 32, SE/4 NW/4. The samples' analytical results shall be sent to EPA and the resident(s) at each respective private water well within 60 days after each sampling event. The table below contains the details of the sampling locations, the sample analytical parameters, the laboratory where the samples will be analyzed, and the number of samples to be collected. All samples shall be collected using a certified water sampling technician from the Tri-County Health Department. Sample transportation from the sampling locations to the laboratory in Murray, Utah shall be paid for by Water Disposal. This transportation cost is not reflected in the table below.

SEP: Table Displaying Water Samples to be Collected and Analyzed				
Sample Location Name Telephone No.	Sample Location (Township/Range location based on Uintah Special Meridian)	Mailing address	No. of Samples to be Collected	Cost Estimate
Roger and Cathy Powell 435-722-4760	T1S, R1W, S33	1108 N. Crescent Rd., Roosevelt UT 84066	2, approximately six months apart	2 x \$245.00 = \$490.00
Tammie Pierce 435-722-4045	T1S, R1W, S33	725 N. Crescent Rd., Roosevelt UT 84066	2, approximately six months apart	2 x \$245.00 = \$490.00

SEP: Table Displaying Water Samples to be Collected and Analyzed				
Sample Location Name Telephone No.	Sample Location (Township/Range location based on Uintah Special Meridian)	Mailing address	No. of Samples to be Collected	Cost Estimate
Charmaine Hurley 435-722-4872	T1S, R1W, S33	1107 N. Crescent Rd., Roosevelt UT 84066	2, approximately six months apart	2 x \$245.00 = \$490.00
Lisa Carter 435-722-3240	T1S, R1W, S33	N. Crescent Rd., Roosevelt UT 84066	2, approximately six months apart	2 x \$245.00 = \$490.00
Jeff Allred 435-722-2600	T1S, R1W, S33	1643 West N. Crescent Rd., Roosevelt UT 84066	2, approximately six months apart	2 x \$245.00 = \$490.00
Dorothy Houston 435-722-3155	T1S, R1W, S33	1305 West 3250 North N Crescent Rd., Roosevelt UT 84066	2, approximately six months apart	2 x \$245.00 = \$490.00
Leroy Pectol 435-722-4289	T2S, R1W, S3, NW/4 Parcel No. 1476-0014 486 East 2730 North	Rte #1, Box 1055, Roosevelt UT 84066	2, approximately six months apart	2 x \$245.00 = \$490.00
Leroy Pectol 435-722-4289	T2S, R1W, S3, NW/4 Parcel No. 1476-0002 731 East 2730 North	Rte #1, Box 1051, Roosevelt UT 84066	2, approximately six months apart	2 x \$245.00 = \$490.00
Leroy Pectol 435-722-4289	T2S, R1W, S3, NW/4 Parcel No. 1476-0003 733 East 2730 North & 727 East 2730 North	Rte #1, Boxes 1052 & 1053, Roosevelt UT 84066 (2 rentals)	2, approximately six months apart	2 x \$245.00 = \$490.00
Leroy Pectol 435-722-4289	T2S, R1W, S3, NW/4 Parcel No. 1476-0002 476 East 2730 North	Rte #1, Box 1056, Roosevelt UT 84066	2, approximately six months apart	2 x \$245.00 = \$490.00
Leroy Pectol 435-722-4289	T2S, R1W, S3, NW/4 Parcel No. 1476-0009&0004 459 East 2730 North (A) 509 East 2730 North (B)	Rte #1, Box 1062, Roosevelt UT 84066 (2 rentals)	2, approximately six months apart	2 x \$245.00 = \$490.00
Leon Roberts 435-724-2972	T2S, R1W, S3, NW/4 Parcel No. 1476-0006 410 East 2730 North	Rte #1, Box 1048, Roosevelt UT 84066	2, approximately six months apart	2 x \$245.00 = \$490.00
Don & Nedra Bromley 435-722-2842 (w) 435-722-3326	T2S, R1W, S3, NW/4 Parcel No. 1476-0009-1 480 East 3000 North	77 North 200 East, Roosevelt UT 84066	2, approximately six months apart	2 x \$245.00 = \$490.00

SEP: Table Displaying Water Samples to be Collected and Analyzed				
Sample Location Name Telephone No.	Sample Location (Township/Range location based on Uintah Special Meridian)	Mailing address	No. of Samples to be Collected	Cost Estimate
Ute Indian Housing Authority 435-722-4656	T2S, R1W, S3, NW/4 Parcel No. 1476-0015-1 550 East 3000 North	P.O. Box 92 Whiterocks, UT 84083	2, approximately six months apart	2 x \$245.00 = \$490.00
Evaporation Pond 435-649-2382	T1S, R1W, Sec. 32 SE/4, NW/4 N Crescent Rd facility	2285 Lucky John Drive, Park City, UT 84060	1	\$245.00
TOTAL SEP EXPENDITURE ESTIMATE				\$7,105.00
Constituent List (for all samples collected)	Dissolved Sodium, Dissolved Calcium, Dissolved Magnesium, Dissolved Potassium, Dissolved Chloride, Dissolved Carbonate, Dissolved Bicarbonate, Dissolved Sulfate, Dissolved Benzene, Dissolved Toluene, Dissolved Ethylbenzene, Dissolved Total Xylenes			
Sample Collector 435-781-5475	Tri-County Health Department, 147 East Main, Vernal, UT 84078			
Laboratory 801-262-7299	Chemtech-Ford, Inc., 6100 South Stratler St., Murray, UT 84107-6905			

11. While EPA agrees to mitigate the originally proposed \$5996.00 civil penalty by \$4807.00 (the "SEP mitigation amount," the amount mitigated by performing the SEP), Water Disposal agrees that the total expenditure of this SEP is estimated to be \$7105.00. Water Disposal shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.
12. Water Disposal hereby certifies that, as of the date of this Consent Agreement, it is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is required to perform or develop the SEP by any other agreement, grant or as injunctive relief in this or any other case. Water Disposal further certifies that it has not

received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

13. a. Water Disposal shall submit a SEP Completion Report to EPA by December 31, 2005.

The SEP Completion Report shall contain the following information:

- (i) a detailed description of the SEP as implemented, which description shall include, but not be limited to, all sample analytical results, chain of custody forms, and evidence that sample results were provided to each of individuals identified in paragraph 10;
- (ii) a description of any operating problems encountered and the solutions thereto;
- (iii) itemized costs; and
- (iv) certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement.

b. Water Disposal shall submit an Interim Report to EPA within 60 days after the initial samples are collected as described in paragraph 10. The Interim Report shall contain the following information:

- (i) a detailed description of the SEP as implemented to date, which description shall include, but not be limited to, all sample analytical results, chain of custody forms, and evidence that sample results were provided to each of individuals identified in paragraph 10; and
- (ii) a description of any operating problems encountered and the solutions thereto.

c. Water Disposal agrees that failure to submit the SEP Completion Report and/or the Interim Report shall be deemed a violation of this Consent Agreement and shall become liable for stipulated penalties pursuant to paragraph 17 below.

d. Water Disposal shall submit all notices and reports required by this Consent Agreement to by first class mail to Nathan Wiser at the following address:

Nathan Wiser (8ENF-UFO)
UIC Technical Enforcement Program
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466.

e. In itemizing its costs in the SEP completion report, Water Disposal shall clearly identify and provide acceptable documentation for all costs directly associated with the SEP. For purposes of this paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

14. In all documents or reports submitted to EPA pursuant to this Consent Agreement, Water Disposal shall, by an officer, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

"I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the

information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.”

15. To the extent authorized by law, EPA has the right to inspect any facility in order to confirm that the SEP is being undertaken in conformity with the representations made herein.
16. a. After receipt of the SEP Completion Report described in paragraph 13 above, EPA will notify Water Disposal, in writing, regarding (i) any deficiencies in the SEP Completion Report itself along with a grant of an additional thirty (30) days for Water Disposal to correct any deficiencies; or (ii) indicate that EPA concludes that the project has been completed satisfactorily or (iii) determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with paragraph 17 herein.
b. If EPA elects to exercise option (i) above, i.e., if the SEP Completion Report is determined to be deficient but EPA has not yet made a final determination about the adequacy of SEP completion itself, EPA shall permit Water Disposal the opportunity to object in writing to the notification of deficiency given pursuant to this paragraph within ten (10) days of receipt of such notification. EPA and Water Disposal shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP Completion Report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Water Disposal, which decision shall be final and binding upon Water Disposal. Water Disposal agrees to comply with any requirements imposed by EPA as a result of any failure to

comply with the terms of this Consent Agreement. In the event the SEP is not completed as contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Water Disposal to EPA in accordance with paragraph 17 herein.

17. a. In the event that Water Disposal fails to comply with any of the terms or provisions of this Consent Agreement relating to the performance of the SEP described herein and/or to the extent that the actual expenditures for the SEP do not equal or exceed the SEP mitigation amount as defined in paragraph 11, Water Disposal shall be liable for stipulated penalties according to the provisions set forth below:

(i) Except as provided in subparagraph (ii) immediately below, for a SEP which has not been completed satisfactorily pursuant to this Consent Agreement, Water Disposal shall pay a stipulated penalty to the United States in the amount of \$6,000.00 (six thousand dollars).

(ii) If the SEP is not completed in accordance with paragraphs 10-16 herein, but EPA determines that Water Disposal: a) made good faith and timely efforts to complete the project; and b) certifies, with supporting documentation, that at least 90 percent of the SEP mitigation amount was spent, Water Disposal shall not be liable for any stipulated penalty.

(iii) If the SEP is completed in accordance with paragraphs 10-16 herein, but Water Disposal spent less than 90 percent of the SEP mitigation amount, Water Disposal shall pay a stipulated penalty to the United States equal to the difference between \$4807.00 and the actual amount spent.

(iv) If the SEP is completed in accordance with paragraphs 10-16 herein, and Water Disposal spent at least 90 percent of the SEP mitigation amount, Water Disposal shall not be liable for any stipulated penalty.

(v) For failure to submit the SEP Completion Report required by paragraph 13 above, Water Disposal shall pay a stipulated penalty in the amount of \$50.00 (fifty dollars) for each day after December 31, 2005, until the report is submitted.

b. The determinations of whether the SEP has been satisfactorily completed and whether Water Disposal has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

c. Stipulated penalties pursuant to this paragraph shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.

d. Water Disposal shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of paragraph 5 above. Interest and late charges shall be paid as stated in paragraph 21 herein.

18. Any public statement, oral or written, in print, film, or other media, made by Water Disposal making reference to the SEP shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of Part C of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h et seq., relating to underground injection controls (UIC)."

19. This Consent Agreement shall not relieve Water Disposal of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor shall it be construed to constitute EPA approval of the equipment or technology used by Water Disposal in connection with the SEP undertaken pursuant to this Consent Agreement.
20. Water Disposal hereby agrees not to claim any funds expended in the performance of the SEP as a deductible business expense for purposes of Federal taxes.
21. Water Disposal further agrees and consents that if Water Disposal fails to pay the penalty in accordance with the terms of paragraph 5 above, and/or stipulated penalties in accordance with the terms of paragraph 17 above, pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney's fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after the payment is due. Pursuant to 4 C.F.R. §§ 102.13(d) and (e), any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid.

GENERAL PROVISIONS

22. This Consent Agreement contains all the terms of the settlement agreed to by the parties.
23. Nothing in this Consent Agreement shall relieve Water Disposal of the duty to comply with the SDWA, its implementing regulations or any laws and regulations administered by EPA.
24. Failure by Water Disposal to comply with any of the terms of this Consent Agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.
25. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Water Disposal's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Water Disposal's violation of any applicable provision of law.
26. The undersigned representative of Water Disposal certifies that he is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind Water Disposal to those terms and conditions.
27. Each party shall bear its own costs and attorneys fees in connection with this matter.
28. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.
29. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of

the specific violations alleged in the PAO. Nothing in this Consent Agreement is intended to nor shall be construed to operate in any way to resolve any criminal liability of Water Disposal. Compliance with this Consent Agreement and order shall not be a defense to any actions subsequently commenced pursuant to laws and regulations administered by EPA, and it is the responsibility of Water Disposal to comply with such laws and regulations.

Water Disposal, Inc.

Date: 3-14-05

By: *John D. Chasel*
John D. Chasel
President

**U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Date: 03/21/05

By: *Eddie Q. Siem for*
Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

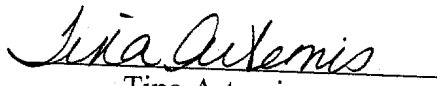
CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **WATER DISPOSAL, INC., DOCKET NO.: SDWA-08-2004-0056** was filed with the Regional Hearing Clerk on May 5, 2005.

Further, the undersigned certifies that a true and correct copy of the document was delivered to James Eppers, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on May 5, 2005, to:

John D. Chasel, President
Water Disposal, Inc.
2285 Lucky John Drive
Park City, UT 84060

May 5, 2005


Tina Artemis
Regional Hearing Clerk



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